

1 HOUSE BILL NO. 170

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5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO AND INCLUDING
 7 GREEN HYDROGEN; DEFINING TERMS; CREATING A NEW TAX CLASSIFICATION FOR GREEN
 8 HYDROGEN AND PROVIDING TAX INCENTIVES; EXEMPTING GREEN HYDROGEN FROM THE MAJOR
 9 FACILITY SITING ACT; REVISING THE STATE ENERGY POLICY TO INCLUDE GREEN HYDROGEN;
 10 REVISING THE USE OF ENERGY DEVELOPMENT AND DEMONSTRATION GRANTS FOR GREEN
 11 HYDROGEN; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-6-137, 15-6-141, 15-6-
 12 156, 15-6-157, 15-24-1401, 75-20-104, 75-20-201, 90-4-1001, AND 90-4-1005, MCA; AND PROVIDING AN
 13 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
 17 NEW SECTION. Section 1. Class eighteen property -- description -- taxable percentage. (1) (a)
 18 ~~Except as provided in~~ SUBJECT TO subsection (1)(b), class eighteen property includes the land, improvements,
 19 furniture, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies, except those included in
 20 class five property under 15-6-135 of a green hydrogen facility, GREEN HYDROGEN pipeline, or GREEN HYDROGEN
 21 storage system.

22 (b) Power generation primary fuel sources must be at least 25% by volume derived from green
 23 hydrogen to qualify under this section.

24 (2) (a) "Green hydrogen" means hydrogen that is produced from nonfossil fuel feedstock sources and
 25 does not produce incremental greenhouse gas emissions during its production. The term does not include
 26 hydrogen produced using steam reforming or any other conversion technology that produces hydrogen from
 27 fossil fuel feedstock.

28 (b) "Green hydrogen facility" means the land, improvements, and personal property of a facility

1 designed or modified:

2 (i) to produce green hydrogen through electrolysis technology;

3 (ii) to store or transport green hydrogen; or

4 (iii) to convert green hydrogen back to electricity through a hydrogen-capable power generation source
5 with construction commencing after July 1, 2021.

6 (c) "Green hydrogen pipeline" means a pipeline used for the transport or storage of green hydrogen,
7 with construction commencing after July 1, 2021.

8 (d) "Green hydrogen storage system" means:

9 ~~(i) an energy storage system that converts electricity from nonfossil energy sources or renewable
10 energy sources into hydrogen through electrolysis technology;~~

11 ~~(ii) the temporary storage of GREEN hydrogen in a vessel, pipeline, or geologic formation; and~~

12 ~~(iii) the conversion of hydrogen back to electricity through a hydrogen-capable power generation
13 source, with construction commencing after July 1, 2021.~~

14 (3) During construction, property not meeting the ~~requirements of~~ DEFINITIONS IN subsection (2) must
15 be classified as class eighteen property if, prior to March 1 of the first tax year for which the classification will be
16 applied, the taxpayer certifies to the department that the facility under construction will meet the ~~requirements of~~
17 DEFINITIONS IN subsection (2) within 2 years of the date of the certification.

18 (4) The taxable property of a green hydrogen facility, a green hydrogen pipeline, and a green
19 hydrogen storage system must be locally assessed.

20 (5) Class eighteen property does not include a green hydrogen facility, pipeline, or storage system for
21 which, during construction, the standard prevailing wages for heavy construction, as provided in 18-2-
22 401(13)(a), were not paid during the construction phase.

23 (6) ~~(A) Class~~ EXCEPT AS PROVIDED IN SUBSECTIONS (6)(B) AND (6)(C), CLASS eighteen property is taxed
24 at ~~4.5%~~ 3% of its market value.

25 (B) CLASS EIGHTEEN PROPERTY DEFINED IN SUBSECTION (2) OR MEETING THE REQUIREMENTS OF
26 SUBSECTION (3) IS TAXED AT 1.5% OF ITS MARKET VALUE FOR THE FIRST 15 YEARS FROM THE TIME CONSTRUCTION
27 COMMENCES.

28 (C) CLASS EIGHTEEN PROPERTY DEFINED IN SUBSECTION (2) FOR WHICH THE OWNERS HAVE MADE AN

1 ADDITIONAL INVESTMENT OF \$25 MILLION OR MORE IS TAXED AT 1.5% OF MARKET VALUE FOR THE FIRST 15 YEARS
 2 FROM THE TIME CONSTRUCTION COMMENCES ON THE ADDITIONAL INVESTMENT.

3
 4 NEW SECTION. Section 2. Rules. (1) The department of revenue shall adopt rules for the
 5 implementation of [sections 1 and 2], including:
 6 (a) the valuation of property and administration of property classified under [section 1]; and
 7 (b) rules necessary for certification and compliance with [section 1].
 8 (2) The rules may include specifying procedures, including timeframes for application, and definitions
 9 necessary to identify property for compliance.

10
 11 **Section 3.** Section 15-6-137, MCA, is amended to read:
 12 "**15-6-137. Class seven property -- description -- taxable percentage.** (1) Except as provided in
 13 subsection (2), class seven property includes:
 14 (a) all property owned by cooperative rural electrical associations that serve less than 95% of the
 15 electricity consumers within the incorporated limits of a city or town, except rural electric cooperative properties
 16 described in 15-6-141(1)(c);
 17 (b) electric transformers and meters; electric light and power substation machinery; natural gas
 18 measuring and regulating station equipment, meters, and compressor station machinery owned by noncentrally
 19 assessed public utilities; and tools used in the repair and maintenance of this property.
 20 (2) Class seven property does not include wind generation facilities, biomass generation facilities, ~~and~~
 21 energy storage facilities classified under 15-6-157, and property classified under [section 1].
 22 (3) Class seven property is taxed at 8% of its market value."
 23

24 **Section 4.** Section 15-6-141, MCA, is amended to read:
 25 "**15-6-141. Class nine property -- description -- taxable percentage.** (1) Class nine property
 26 includes:
 27 (a) centrally assessed allocations of an electric power company or centrally assessed allocations of
 28 an electric power company that owns or operates transmission or distribution facilities or both;

1 (b) if congress passes legislation that allows the state to tax property owned by an agency created by
2 congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by
3 a public agency created by congress to transmit or distribute electrical energy produced at privately owned
4 generating facilities, not including rural electric cooperatives;

5 (c) rural electric cooperatives' property, except wind generation facilities, biomass generation facilities,
6 and energy storage facilities classified under 15-6-157 and property used for headquarters, office, shop, or
7 other similar facilities, used for the sole purpose of serving customers representing less than 95% of the electric
8 consumers located within the incorporated limits of a city or town of more than 3,500 persons in which a
9 centrally assessed electric power company also owns property or serving an incorporated municipality with a
10 population that is greater than 3,500 persons formerly served by a public utility that after January 1, 1998,
11 received service from the facilities of an electric cooperative;

12 (d) allocations for centrally assessed natural gas distribution utilities, rate-regulated natural gas
13 transmission or oil transmission pipelines regulated by either the public service commission or the federal
14 energy regulatory commission, a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined
15 in 49 U.S.C. 15102(2), or the gas gathering facilities specified in 15-6-138(5); and

16 (e) centrally assessed companies' allocations except:

17 (i) electrical generation facilities classified under 15-6-156;

18 (ii) all property classified under 15-6-157;

19 (iii) all property classified under 15-6-158 and 15-6-159;

20 (iv) property owned by cooperative rural electric and cooperative rural telephone associations and
21 classified under 15-6-135;

22 (v) property owned by organizations providing telephone communications to rural areas and classified
23 under 15-6-135;

24 (vi) railroad transportation property included in 15-6-145;

25 (vii) airline transportation property included in 15-6-145; and

26 (viii) telecommunications property included in 15-6-156; and

27 (ix) all property classified under [section 1].

28 (2) Class nine property is taxed at 12% of market value."

1

2 **Section 5.** Section 15-6-156, MCA, is amended to read:

3 **"15-6-156. Class thirteen property -- description -- taxable percentage.** (1) Except as provided in
4 subsections (2)(a) through (2)(~~h~~)(i), class thirteen property includes:

5 (a) electrical generation facilities, except wind generation facilities, biomass generation facilities, and
6 energy storage facilities classified under 15-6-157, of a centrally assessed electric power company;

7 (b) electrical generation facilities, except wind generation facilities, biomass generation facilities, and
8 energy storage facilities classified under 15-6-157, owned or operated by an exempt wholesale generator or an
9 entity certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

10 (c) noncentrally assessed electrical generation facilities, except wind generation facilities, biomass
11 generation facilities, and energy storage facilities classified under 15-6-157, owned or operated by any
12 electrical energy producer;

13 (d) allocations of centrally assessed telecommunications services companies; and

14 (e) dedicated communications infrastructure described in 15-6-162(5) for which construction
15 commenced after June 30, 2027, or for which the 15-year period provided for in 15-6-162(5)(c) has expired.

16 (2) Class thirteen property does not include:

17 (a) property owned by cooperative rural electric cooperative associations classified under 15-6-135;

18 (b) property owned by cooperative rural electric cooperative associations classified under 15-6-137 or
19 15-6-157;

20 (c) allocations of electric power company property under 15-6-141;

21 (d) electrical generation facilities included in another class of property;

22 (e) property owned by cooperative rural telephone associations and classified under 15-6-135;

23 (f) property owned by organizations providing telecommunications services and classified under 15-6-
24 135;

25 (g) generation facilities that are exempt under 15-6-225; ~~and~~

26 (h) qualified data centers classified under 15-6-162; ~~and~~

27 (i) property classified under [section 1].

28 (3) (a) For the purposes of this section, "electrical generation facilities" means any combination of a

1 physically connected generator or generators, associated prime movers, and other associated property,
 2 including appurtenant land and improvements and personal property, that are normally operated together to
 3 produce electric power. The term includes but is not limited to generating facilities that produce electricity from
 4 coal-fired steam turbines, oil or gas turbines, or turbine generators that are driven by falling water.

5 (b) The term does not include electrical generation facilities used for noncommercial purposes or
 6 exclusively for agricultural purposes.

7 (c) The term also does not include a qualifying small power production facility, as that term is defined
 8 in 16 U.S.C. 796(17), that is owned and operated by a person not primarily engaged in the generation or sale of
 9 electricity other than electric power from a small power production facility and classified under 15-6-134 and 15-
 10 6-138.

11 (4) Class thirteen property is taxed at 6% of its market value."
 12

13 **Section 6.** Section 15-6-157, MCA, is amended to read:

14 **"15-6-157. Class fourteen property -- description -- taxable percentage.** (1) Class fourteen
 15 property includes:

16 (a) wind generation facilities of a centrally assessed electric power company;

17 (b) wind generation facilities owned or operated by an exempt wholesale generator or an entity
 18 certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

19 (c) noncentrally assessed wind generation facilities owned or operated by any electrical energy
 20 producer;

21 (d) wind generation facilities owned or operated by cooperative rural electric associations described
 22 under 15-6-137;

23 (e) biomass generation facilities up to 25 megawatts in nameplate capacity of a centrally assessed
 24 electric power company;

25 (f) biomass generation facilities up to 25 megawatts in nameplate capacity owned or operated by an
 26 exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to 42 U.S.C.
 27 16451;

28 (g) noncentrally assessed biomass generation facilities up to 25 megawatts in nameplate capacity

1 owned or operated by any electrical energy producer;

2 (h) biomass generation facilities up to 25 megawatts in nameplate capacity owned or operated by
3 cooperative rural electric associations described under 15-6-137;

4 (i) energy storage facilities of a centrally assessed electric power company;

5 (j) energy storage facilities owned or operated by an exempt wholesale generator or an entity certified
6 as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

7 (k) noncentrally assessed energy storage facilities owned or operated by any electrical energy
8 producer;

9 (l) energy storage facilities owned or operated by cooperative rural electrical associations described
10 under 15-6-137;

11 (m) battery energy storage systems that comply with federal standards on the manufacture and
12 installation of the systems that are owned and operated by an electrical energy storage producer, electrical
13 energy producer, or energy trading entity or by the owner or operator of an electrical vehicle charging site;

14 (n) all property of a biodiesel production facility, as defined in 15-24-3102, that has commenced
15 construction after June 1, 2007;

16 (o) all property of a biogas production facility, as defined in 15-24-3102, that has commenced
17 construction after June 1, 2007;

18 (p) all property of a biomass gasification facility, as defined in 15-24-3102;

19 (q) all property of a coal gasification facility, as defined in 15-24-3102, except for property in
20 subsection (1)(t) of this section, that sequesters carbon dioxide;

21 (r) all property of an ethanol production facility, as defined in 15-24-3102, that has commenced
22 construction after June 1, 2007;

23 (s) all property of a geothermal facility, as defined in 15-24-3102;

24 (t) all property of an integrated gasification combined cycle facility, as defined in 15-24-3102, that
25 sequesters carbon dioxide, as required by 15-24-3111(4)(c);

26 (u) all property or a portion of the property of a renewable energy manufacturing facility, as defined in
27 15-24-3102, that has commenced construction after June 1, 2007;

28 (v) all property of a natural gas combined cycle facility;

1 (w) equipment that is used to capture and to prepare for transport carbon dioxide that will be
2 sequestered or injected for the purpose of enhancing the recovery of oil and gas, other than that equipment at
3 coal combustion plants of the types that are generally in commercial use as of December 31, 2007, that
4 commence construction after December 31, 2007;

5 (x) high-voltage direct-current transmission lines and associated equipment and structures, including
6 converter stations and interconnections, other than property classified under 15-6-159, that:

7 (i) originate in Montana with a converter station located in Montana east of the continental divide and
8 that are constructed after July 1, 2007;

9 (ii) are certified under the Montana Major Facility Siting Act; and

10 (iii) provide access to energy markets for Montana electrical generation facilities listed in this section
11 that commenced construction after June 1, 2007;

12 (y) all property of electric transmission lines, including substations, that originate at facilities specified
13 in this subsection (1), with at least 90% of electricity carried by the line originating at facilities specified in this
14 subsection (1) and terminating at an existing transmission line or substation that has commenced construction
15 after June 1, 2007;

16 (z) the qualified portion of an alternating current transmission line and its associated equipment and
17 structures, including interconnections, that has commenced construction after June 1, 2007.

18 (2) (a) The qualified portion of an alternating current transmission line in subsection (1)(z) is that
19 percentage, as determined by the department of environmental quality, of rated transmission capacity of the
20 line contracted for on a firm basis by buyers or sellers of electricity generated by facilities specified in
21 subsection (1) that are located in Montana.

22 (b) The department of revenue shall classify the total value of an alternating current transmission line
23 in accordance with the determination made by the department of environmental quality pursuant to subsection
24 (2)(a).

25 (c) The owner of property described under this subsection (2) shall disclose the location of the
26 generation facilities specified in subsection (1) and information sufficient to demonstrate that there is a firm
27 contract for transmission capacity available throughout the year. For purposes of the initial qualification, the
28 owner is not required to disclose financial terms and conditions of contracts beyond that needed for

1 classification.

2 (3) Class fourteen property does not include facilities:

3 (a) at which the standard prevailing rate of wages for heavy construction, as provided in 18-2-414,
4 was not paid during the construction phase; or

5 (b) that are exempt under 15-6-225.

6 (4) For the purposes of this section, the following definitions apply:

7 (a) "Biomass generation facilities" means any combination of boilers, generators, associated prime
8 movers, and other associated property, including appurtenant land and improvements and personal property,
9 that are normally operated together to produce electric power from the burning of organic material other than
10 coal, petroleum, natural gas, or any products derived from coal, petroleum, or natural gas, with the use of
11 natural gas or other fuels allowed for ignition and to stabilize boiler operations.

12 (b) (i) "Compressed air energy storage" means the conversion of electrical energy to compressed air
13 by using an electrically powered turbocompressor for storage in vessels designed for that purpose and in the
14 earth, including but not limited to deep saline formations, basalt formations, aquifers, depleted oil or gas
15 reservoirs, abandoned mines, and mined rock cavities.

16 (ii) The term includes the conversion of compressed air into electrical energy by using turboexpander
17 equipment and electrical generation equipment.

18 (c) (i) "Energy storage facilities" means hydroelectric pumped storage property, compressed air
19 energy storage property, regenerative fuel cells, batteries, flywheel storage property, or any combination of
20 energy storage facilities directly connected to the electrical power grid and associated property, appurtenant
21 land and improvements, and personal property that are designed to:

22 (A) receive and store electrical energy as potential energy; and

23 (B) convert the stored energy into electrical energy for sale as an energy commodity or as electricity
24 services to balance energy flow on the electrical power grid in order to maintain a stable transmission grid,
25 including but not limited to frequency regulation ancillary services and frequency control.

26 (ii) The term includes only property that in the aggregate can store at least 0.25 megawatt hour and
27 has a power rating of at least 1 megawatt for a period of at least 0.25 hour.

28 (iii) The term does not include property, including associated property and appurtenant land and

1 improvements, that is used to hold water in ponds, reservoirs, or impoundments related to hydroelectric
2 pumped storage as defined in subsection (4)(e).

3 (d) "Flywheel storage" means a process that stores energy kinetically in the form of a rotating
4 flywheel. Energy stored by the rotating flywheel can be converted to electrical energy through the flywheel's
5 integrated electric generator.

6 (e) "Hydroelectric pumped storage" means a process that converts electrical energy to potential
7 energy by pumping water to a higher elevation, where it can be stored indefinitely and then released to pass
8 through hydraulic turbines and generate electrical energy.

9 (f) (i) "Regenerative fuel cell" means a device that produces hydrogen and oxygen from electricity
10 and water and alternately produces electrical energy and water from stored hydrogen and oxygen.

11 (ii) The term does not include a green hydrogen facility, green hydrogen pipeline, or green hydrogen
12 storage system as defined in [section 1].

13 (g) "Wind generation facilities" means any combination of a physically connected wind turbine or
14 turbines, associated prime movers, and other associated property, including appurtenant land and
15 improvements and personal property, that are normally operated together to produce electric power from wind.

16 (5) (a) The department of environmental quality shall determine whether to certify that a transmission
17 line meets the criteria of subsection (1)(x), (1)(y), or (1)(z), as applicable, based on an application provided for
18 in 15-24-3112. The department of environmental quality shall review the certification 10 years after the line is
19 operational, and if the property no longer meets the requirements of subsection (1)(x), (1)(y), or (1)(z), the
20 certification must be revoked.

21 (b) If the department of revenue finds that a certification previously granted was based on an
22 application that the applicant knew was false or fraudulent, the property must be placed in class nine under 15-
23 6-141. If the application was fraudulent, the applicant may be liable for additional taxes, penalty, and interest
24 from the time that the certification was in effect.

25 (6) Class fourteen property is taxed at 3% of its market value."
26

27 **Section 7.** Section 15-24-1401, MCA, is amended to read:

28 **"15-24-1401. Definitions.** The following definitions apply to 15-24-1402 unless the context requires

1 otherwise:

2 (1) "Expansion" means that the industry has added or will add at least \$50,000 worth of qualifying
3 improvements or modernized processes to its property within the same jurisdiction either in the first tax year in
4 which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year.

5 (2) "Industry" includes but is not limited to a firm that:

6 (a) engages in the mechanical or chemical transformation of materials or substances into products in
7 the manner defined as manufacturing in the North American Industry Classification System Manual prepared by
8 the United States office of management and budget;

9 (b) engages in the extraction or harvesting of minerals, ore, or forestry products;

10 (c) engages in the processing of Montana raw materials such as minerals, ore, agricultural products,
11 and forestry products;

12 (d) engages in the transportation, warehousing, or distribution of commercial products or materials if
13 50% or more of the industry's gross sales or receipts are earned from outside the state;

14 (e) earns 50% or more of its annual gross income from out-of-state sales;

15 (f) engages in the production of electrical energy in an amount of 1 megawatt or more by means of an
16 alternative renewable energy source as defined in 15-6-225; or

17 (g) operates a qualified data center or dedicated communications infrastructure classified under 15-6-
18 162; or

19 (h) operates a green hydrogen facility, green hydrogen pipeline, or green hydrogen storage system as
20 defined in [section 1].

21 (3) "New" means that the firm is new to the jurisdiction approving the resolution provided for in 15-24-
22 1402(2) and has invested or will invest at least \$125,000 worth of qualifying improvements or modernized
23 processes in the jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be
24 received or in the preceding tax year. New industry does not include property treated as new industrial property
25 under 15-6-135.

26 (4) "Qualifying" means meeting all the terms, conditions, and requirements for a reduction in taxable
27 value under 15-24-1402 and this section."
28

1 **Section 8.** Section 75-20-104, MCA, is amended to read:

2 **"75-20-104. Definitions.** In this chapter, unless the context requires otherwise, the following
3 definitions apply:

4 (1) "Addition thereto" means the installation of new machinery and equipment that would significantly
5 change the conditions under which the facility is operated.

6 (2) "Application" means an application for a certificate submitted in accordance with this chapter and
7 the rules adopted under this chapter.

8 (3) (a) "Associated facilities" includes but is not limited to transportation links of any kind, aqueducts,
9 diversion dams, pipelines, storage ponds, reservoirs, and any other device or equipment associated with the
10 delivery of the energy form or product produced by a facility.

11 (b) The term does not include a transmission substation, a switchyard, voltage support, or other
12 control equipment or a facility or a natural gas or crude oil gathering line 25 inches or less in inside diameter.

13 (4) "Board" means the board of environmental review provided for in 2-15-3502.

14 (5) "Certificate" means the certificate of compliance issued by the department under this chapter that
15 is required for the construction or operation of a facility.

16 (6) "Commence to construct" means:

17 (a) any clearing of land, excavation, construction, or other action that would affect the environment of
18 the site or route of a facility but does not mean changes needed for temporary use of sites or routes for
19 nonutility purposes or uses in securing geological data, including necessary borings to ascertain foundation
20 conditions;

21 (b) the fracturing of underground formations by any means if the activity is related to the possible
22 future development of a gasification facility or a facility employing geothermal resources but does not include
23 the gathering of geological data by boring of test holes or other underground exploration, investigation, or
24 experimentation;

25 (c) the commencement of eminent domain proceedings under Title 70, chapter 30, for land or rights-
26 of-way upon or over which a facility may be constructed;

27 (d) the relocation or upgrading of an existing facility defined by subsection (9)(a) or (9)(b), including
28 upgrading to a design capacity covered by subsection (9)(a), except that the term does not include normal

1 maintenance or repair of an existing facility.

2 (7) (a) "Commencement of acquisition of right-of-way" means the actual, defined legal transfer of
3 property.

4 (b) The term does not mean preliminary discussions, option agreements that are not within 60 days of
5 commencement of acquisition, letters of intent, or other documents that do not conclusively result in the legal
6 transfer of property.

7 (8) "Department" means the department of environmental quality provided for in 2-15-3501.

8 (9) "Facility" means, subject to 75-20-1202:

9 (a) each electric transmission line and associated facilities of a design capacity of more than 69
10 kilovolts, except that the term:

11 (i) does not include an electric transmission line and associated facilities of a design capacity of 230
12 kilovolts or less and 10 miles or less in length;

13 (ii) does not include an electric transmission line with a design capacity of more than 69 kilovolts for
14 which the person planning to construct the line has obtained right-of-way agreements or options for a right-of-
15 way from more than 75% of the owners who collectively own more than 75% of the property along the
16 centerline;

17 (iii) does not include electric transmission lines that are collectively less than 150 miles in length and
18 are required under state or federal regulations and laws, with respect to reliability of service, for an electrical
19 generation facility, as defined in 15-24-3001(4), ~~or for~~ a wind generation facility, biomass generation facility, or
20 energy storage facility, as defined in 15-6-157, or for a green hydrogen facility or green hydrogen storage
21 system, as defined in [section 1], to interconnect to a regional transmission grid or secure firm transmission
22 service to use the grid for which the person planning to construct the line or lines has obtained right-of-way
23 agreements or options for a right-of-way from more than 75% of the owners who collectively own more than
24 75% of the property along the centerline or centerlines;

25 (iv) does not include an upgrade to an existing transmission line of a design capacity of 50 kilovolts or
26 more to increase that line's capacity, including construction outside the existing easement or right-of-way.
27 Except for a newly acquired easement or right-of-way necessary to comply with electromagnetic field
28 standards, a newly acquired easement or right-of-way outside the existing easement or right-of-way as

1 described in this subsection (9)(a)(iv) may not exceed a total of 10 miles in length or be more than 10% of the
2 existing transmission right-of-way, whichever is greater, and the purpose of the easement must be to avoid
3 sensitive areas or inhabited areas or conform to state or federal safety, reliability, and operational standards
4 designed to safeguard the transmission network and protect electrical workers and the public.

5 (v) does not include a transmission substation, a switchyard, voltage support, or other control
6 equipment;

7 (vi) does not include an energy storage facility, as defined in 15-6-157;

8 (vii) does not include a green hydrogen facility or green hydrogen storage system, as defined in
9 [section 1];

10 (b) (i) each pipeline, whether partially or wholly within the state, greater than 25 inches in inside
11 diameter and 50 miles in length, and associated facilities, except that the term does not include:

12 (A) a pipeline within the boundaries of the state that is used exclusively for the irrigation of agricultural
13 crops or for drinking water; ~~or~~

14 (B) a pipeline greater than 25 inches in inside diameter and 50 miles in length for which the person
15 planning to construct the pipeline has obtained right-of-way agreements or options for a right-of-way from more
16 than 75% of the owners who collectively own more than 75% of the property along the centerline; or

17 (C) a green hydrogen pipeline, as defined in [section 1];

18 (ii) each pipeline, whether partially or wholly within the state, greater than 17 inches in inside diameter
19 and 30 miles in length, and associated facilities used to transport coal suspended in water;

20 (c) any use of geothermal resources, including the use of underground space in existence or to be
21 created, for the creation, use, or conversion of energy, designed for or capable of producing geothermally
22 derived power equivalent to 50 megawatts or more or any addition thereto, except pollution control facilities
23 approved by the department and added to an existing plant, except that the term does not include a
24 compressed air energy storage facility, as defined in 15-6-157, or a green hydrogen facility or green hydrogen
25 storage system, as defined in [section 1]; or

26 (d) for the purposes of 75-20-204 only, a plant, unit, or other facility capable of generating 50
27 megawatts of hydroelectric power or more or any addition thereto.

28 (10) "Person" means any individual, group, firm, partnership, corporation, limited liability company,

1 cooperative, association, government subdivision, government agency, local government, or other organization
2 or entity.

3 (11) "Sensitive areas" means government-designated areas that have been recognized for their
4 importance to Montana's wildlife, wilderness, culture, and historic heritage, including but not limited to national
5 wildlife refuges, state wildlife management areas, federal areas of critical environmental concern, state parks
6 and historic sites, designated wilderness areas, wilderness study areas, designated wild and scenic rivers, or
7 national parks, monuments, or historic sites.

8 (12) ~~"Transmission substation" means any structure, device, or equipment assemblage, commonly~~
9 ~~located and designed for voltage regulation, circuit protection, or switching necessary for the construction or~~
10 ~~operation of a proposed transmission line.~~ "Transmission reliability agencies" means the federal energy
11 regulatory commission, the western electricity coordinating council, the national electric reliability council, and
12 the midwest reliability organization.

13 (13) ~~"Transmission reliability agencies" means the federal energy regulatory commission, the western~~
14 ~~electricity coordinating council, the national electric reliability council, and the midwest reliability organization.~~
15 "Transmission substation" means any structure, device, or equipment assemblage, commonly located and
16 designed for voltage regulation, circuit protection, or switching necessary for the construction or operation of a
17 proposed transmission line.

18 (14) "Upgrade" means to increase the electrical carrying capacity of a transmission line by actions
19 including but not limited to:

- 20 (a) installing larger conductors;
21 (b) replacing insulators;
22 (c) replacing pole or tower structures;
23 (d) changing structure spacing, design, or guying; or
24 (e) installing additional circuits.

25 (15) "Utility" means any person engaged in any aspect of the production, storage, sale, delivery, or
26 furnishing of heat, electricity, gas, hydrocarbon products, or energy in any form for ultimate public use."

27

28 **Section 9.** Section 75-20-201, MCA, is amended to read:

1 **"75-20-201. Certificate required -- operation in conformance -- certificate for nuclear facility --**

2 **applicability to federal facilities.** (1) Except for a facility under diligent onsite physical construction or in
3 operation on January 1, 1973, a person may not commence to construct a facility in the state without first
4 applying for and obtaining a certificate of compliance issued with respect to the facility by the department.

5 (2) A facility with respect to which a certificate is issued may not be constructed, operated, or
6 maintained except in conformity with the certificate and any terms, conditions, and modifications contained
7 within the certification.

8 (3) A certificate may only be issued pursuant to this chapter.

9 (4) If the department decides to issue a certificate for a nuclear facility, it shall report the
10 recommendation to the applicant and may not issue the certificate until the recommendation is approved by a
11 majority of the voters in a statewide election called by initiative or referendum according to the laws of this
12 state.

13 (5) A person that proposes to construct an energy-related project that is not defined as a facility
14 pursuant to 75-20-104(9) may petition the department to review the energy-related project under the provisions
15 of this chapter. The construction or installation of an energy storage facility, as defined in 15-6-157, or a green
16 hydrogen facility, a green hydrogen pipeline, or a green hydrogen storage system, as defined in [section 1], is
17 not considered an energy-related project under the provisions of this chapter. A certificate for the construction
18 or installation of an energy storage facility, or a green hydrogen facility, a green hydrogen pipeline, or a green
19 hydrogen storage system, as defined in [section 1], is not required under this chapter.

20 (6) This chapter applies, to the fullest extent allowed by federal law, to all federal facilities and to all
21 facilities over which an agency of the federal government has jurisdiction.

22 (7) All judicial challenges of certificates for projects with a project cost, as determined by the court, of
23 more than \$1 million must have precedence over any civil cause of a different nature pending in that court. If
24 the court determines that the challenge was without merit or was for an improper purpose, such as to harass, to
25 cause unnecessary delay, or to impose needless or increased cost in litigation, the court may award attorney
26 fees and costs incurred in defending the action."

27

28 **Section 10.** Section 90-4-1001, MCA, is amended to read:

- 1 **"90-4-1001. State energy policy goal statements.** (1) It is the policy of the state of Montana to:
- 2 (a) promote energy efficiency, conservation, production, and consumption of a reliable and efficient
- 3 mix of energy sources that represent the least social, environmental, and economic costs and the greatest long-
- 4 term benefits to Montana citizens;
- 5 (b) enhance existing energy development and create new diversified energy development from all of
- 6 Montana's abundant energy resources;
- 7 (c) promote development of projects using advanced technologies that convert coal into electricity,
- 8 synthetic petroleum products, hydrogen, methane, natural gas, and chemical feedstocks;
- 9 (d) increase utilization of Montana's vast coal reserves in an environmentally sound manner that
- 10 includes the mitigation of greenhouse gas and other emissions;
- 11 (e) increase local oil and gas exploration and development to provide high-paying jobs and to
- 12 strengthen Montana's economy;
- 13 (f) expand exploration and technological innovation, including using carbon dioxide for enhanced oil
- 14 recovery in declining oil fields to increase output;
- 15 (g) expand Montana's petroleum refining industry as a significant contributor to Montana's
- 16 manufacturing sector in supplying the transportation energy needs of Montana and the region;
- 17 (h) develop biomass plants to generate heat for industrial use, electricity, or both, and as a means to
- 18 manage Montana's forests;
- 19 (i) promote the generation of low-cost electricity with large-scale utility wind generation and small-
- 20 scale distributed generation;
- 21 (j) build new transmission lines in the state, while noting that the need for new transmission lines may
- 22 be mitigated by focusing on energy efficiency, distributed energy, demand response, and smart grid
- 23 technologies;
- 24 (k) increase the capacity of existing transmission lines in existing corridors and maximize the potential
- 25 of existing transmission lines;
- 26 (l) develop new transmission lines, pipelines, and other energy infrastructure in Montana by working
- 27 closely with all affected stakeholders, including local governments, in the preliminary stages of development;
- 28 (m) address the interests of property owners and property rights as soon as practicable when

1 developing a project to provide time to consider a variety of options as easements are secured;

2 (n) ensure that the costs of transmission lines that allow for the export of Montana-generated
3 electricity are borne by those who will benefit from the lines in order to protect Montana's ratepayers from the
4 costs of serving others;

5 (o) strengthen Montana's level of participation in regional transmission efforts and organizations,
6 recognizing that endeavors to improve the management of the transmission grid often require a broad, regional
7 approach;

8 (p) use new and innovative technologies, such as compressed air energy storage, batteries,
9 flywheels, hydrogen production, green hydrogen facilities and green hydrogen storage systems as defined in
10 [section 1], smart grid, smart garage, and intrahour balancing services to address ~~wind~~ integration of wind and
11 other forms of renewable energy;

12 (q) utilize modeling and high-capacity computer technology to quantify the benefits of geographic
13 diversity and for regional planning in the siting of future wind development facilities in order to optimize usable
14 power generation and mitigate firming needs;

15 (r) review potential impacts to landscapes, wildlife, and existing land uses, including recreation and
16 agriculture when developing wind generation;

17 (s) develop contracts between qualifying small power production facilities, as defined in 69-3-601, and
18 utilities, which facilitate the development of small power production facilities by identifying fair and reasonable
19 costs for integration of their power;

20 (t) monitor existing energy incentives to determine if they are cost-effective, noting that incentives are
21 a temporary tool to implement and promote:

22 (i) new technologies;

23 (ii) new fuel sources;

24 (iii) efficiency and conservation; and

25 (iv) energy diversity;

26 (u) enhance Montana's overall management responsibilities, both fiduciary and multiple-use, pursuant
27 to The Enabling Act of the state of Montana, Article X of the Montana constitution, and Title 7, chapter 1, in
28 pursuing energy development on state lands;

- 1 (v) develop and use best management practices for energy development on state lands;
- 2 (w) develop and emphasize building performance standards for efficiency as an alternative to
3 prescriptive standards in order to encourage innovations that may result in more comfort for the property owner
4 and less energy use at a lower cost; and
- 5 (x) ensure that adequate amounts of the electrical energy produced at the lowest cost in this state are
6 reserved for Montana's families, businesses, and industries.
- 7 (2) In pursuing these goal statements, it is the policy of the state of Montana to:
- 8 (a) consider that the state's energy system operates within the larger context of and is influenced by
9 regional, national, and international energy markets;
- 10 (b) develop Montana's existing and new, diversified energy resources to provide low-cost electricity,
11 gas, and liquid fuels needed to drive economic growth and self sufficiency;
- 12 (c) reduce the nation's reliance on foreign oil that often comes from unfriendly countries around the
13 world;
- 14 (d) consider reviewing these energy policy statements and any future changes pursuant to 90-4-1003
15 so that Montana's energy strategy will provide for a balance between a sustainable environment and a viable
16 economy;
- 17 (e) adopt a state transportation energy policy as provided in 90-4-1010 and an alternative fuels policy
18 and implementing guidelines as provided in 90-4-1011; and
- 19 (f) consider revisions to the state transportation energy policy and the alternative fuels policy and
20 implementing guidelines, if necessary."

21

22 **Section 11.** Section 90-4-1005, MCA, is amended to read:

23 **"90-4-1005. Energy development and demonstration grant program.** (1) There is an energy
24 development and demonstration grant program within the department of environmental quality to fund
25 technology development and demonstration:

- 26 (a) advancing the development and utilization of energy storage systems, including but not limited to
27 mediums, such as accumulators, fuel cells, ~~and~~ batteries, and green hydrogen storage systems as defined in
28 [section 1] that store energy that may be drawn upon at a later date for use;

1 (b) developing storage systems specifically designed to store energy generated from eligible
2 renewable resources as defined in 69-3-2003, including but not limited to compressed air energy and green
3 hydrogen storage systems;

4 (c) promoting the efficiency, environmental performance, and cost-competitiveness of energy storage
5 systems beyond the current level of technology; and

6 (d) advancing the development of alternative energy systems as defined in 15-32-102 and green
7 hydrogen facilities as defined in [section 1].

8 (2) Entities that may be eligible for grants include but are not limited to units of the Montana university
9 system, agricultural research centers, or private entities or research centers.

10 (3) Money appropriated to the department of environmental quality for the purpose of the energy
11 development and demonstration grant program may be used by the department for providing individual grants
12 in amounts up to \$500,000 and for administrative costs of 1% of the grant award.

13 (4) The grant application may include:

14 (a) a project plan sufficient to allow a reasonable determination regarding the potential feasibility of
15 advancing energy storage or alternative energy systems;

16 (b) a business plan to allow a reasonable determination regarding the financial feasibility of the
17 project; and

18 (c) a reporting process to ensure progress toward project goals."
19

20 **NEW SECTION. Section 12. Notification to tribal governments.** The secretary of state shall send a
21 copy of [this act] to each federally recognized tribal government in Montana.
22

23 **NEW SECTION. Section 13. Codification instruction.** [Sections 1 and 2] are intended to be codified
24 as an integral part of Title 15, chapter 6, and the provisions of Title 15, chapter 6, apply to [sections 1 and 2].
25

26 **NEW SECTION. Section 14. Severability.** If a part of [this act] is invalid, all valid parts that are
27 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
28 the part remains in effect in all valid applications that are severable from the invalid applications.

